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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,621	07/25/2001	Seisaku Iwasa	IS-US000501	3456

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EXAMINER	
STASHICK, ANTHONY D	

ART UNIT	PAPER NUMBER
3728	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/911,621	IWASA ET AL.	
	Examiner	Art Unit	
	Anthony Stashick	3728	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appea has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Anthony Stashick
Primary Examiner
Art Unit: 3728

Continuation of 11. does NOT place the application in condition for allowance because: applicant has failed to convince the examiner that the term "drops" used in the specification of McKenna does not cover any resonable interpretation of the term. Applicant argues that the disclosure of Mckenna teaches the term "drop" as being directed towards the severed end of the bag and not the bag. This argument is not clear. In column 5, lines 63-65, McKenna clearly states that "The jaws 60 and 64 open, thereby releasing the bag 62a which drops onto a conveyor73 ...". This clearly states that the bag is released not just the end of the bag as applicant states. Applicant has failed to point to anywhere in the specification of McKenna that states that the bag rests upon the conveyor belt before it is dropped onto the conveyor belt. Applicant further argues that the bag is only shown in the drawings being supported by the conveyor belt and therefore, it should be interpreted that the term drop actually means placing. It has been well settled that it is not required of a patent owner to show all possible embodiments of an invention, but only the preferred embodiments. The fact that the Patent does not show any figures supporting the term "drop" as interpreted by the examiner does not preclude what is taught by McKenna in the disclosure. The use of the term "drop" in the disclosure teaches all forms of dropping. Therefore, the examiner's interpretation of the term "drop" in the specification of McKenna is reasonable and proper. Applicant argues that "Applicant believes that the bottom end of the bag 62 does contact the conveyor 73 before the release by the jaws 60 and 64..." and refers to the drawings in support of this. This argument is also not clear. The drawings only show one size of bag, but clearly one of ordinary skill in the art could recognize that different sized bags, i.e. bags smaller than those shown, could be made and would not touch the conveyor until after they are dropped. Applicant's arguments with respect to the weight of the sandbags is also not clear. Applicant argues that the weight of the sandbags would damage the conveyor an would not be able to be supported by the jaws. Clearly, since the sandbags are used with the conveyor, the conveyor must be designed to accept the weight of the sandbags, otherwise the conveyor would serve no purpose. With respect to the jaws holding the sandbag, it is clearly taught in McKenna in col. 5, lines 63-65 that the jaws hold the sandbag and then open, thereby dropping the sandbag onto the conveyor. With respect to applicant's arguments directed to Reichental and Mabry, it appears applicant is arguing against that which these references were not used to teach, as McKenna teaches what applicant argues these references do not teach.